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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,459	07/11/2003	Marshall T. Denton	2078-5372US	3865
24247	7590	10/09/2007	EXAMINER	
TRASK BRITT			GANNEY, STEVEN J	
P.O. BOX 2550			ART UNIT	PAPER NUMBER
SALT LAKE CITY, UT 84110			3752	
		NOTIFICATION DATE	DELIVERY MODE	
		10/09/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[USPTOMail@traskbritt.com](mailto:USPTOMail@traskbritt.com)

## Best Available Copy

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/618,459	DENTON, MARSHALL T.
	<b>Examiner</b>	<b>Art Unit</b>
	Steven J. Ganey	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) Responsive to communication(s) filed on 05 June 2006.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 111453 O.G. 213.

## Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,8,9,14-18 and 21-23 is/are rejected.
- 7) Claim(s) 2-7,10-13,19,20,24 and 25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

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**DETAILED ACTION**

Receipt is acknowledged of the amendment filed on June 5, 2006, which has been fully considered in this action.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Riley et al.

Riley et al discloses a container/bottle 114; a resilient element 106 to form self-biased engagement with a wall of the cylindrical portion at a plurality of locations.

With respect to applicant's statements of intended use, i.e. (to permit suspension of the bottle by the resilient element in a receiving socket of a storage device), the resilient element of Riley et al is capable of performing applicant's intended use, therefore, the claims are fully anticipated.

3. Claims 14 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schreiber.

Schreiber discloses a bottle 12; a pump mechanism 14 and pump head 34; a malleable and deformable conduit 16 and nozzle 18.

4. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Rockefeller.

Rockefeller discloses a bottle 1; a pump mechanism 11 and pump head 21; a malleable and deformable conduit 24 and nozzle 22.

5. Claim 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Heine.

Heine discloses a an atomizer assembly comprising a deformable extension conduit A; nozzle H; and a pump mechanism K and pump head I.

As to claims 22 and 23, note multilumen conduit A, with a first lumen conduit E and a wire F in as second conduit lumen G.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb.

Cobb discloses a fluid atomizer comprising a bottle/container 12; a spray head 24; a conduit 66 with an atomizing nozzle end 64; and a brace 32a/34a/52a, except for the brace being used for a pump type fluid atomizer. See Figures 9 and 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the brace of Cobb for a pump type atomizer since such a modification is merely the substitution of one pressurizing means for another and the brace of Cobb would perform equally as well on a pump type sprayer as well as the pressurized sprayer as disclosed. As shown in Figure 1A, the end of the conduit by the nozzle resists motion, therefore the up and down motion of a pump sprayer would not effect the end of the conduit by the nozzle.

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8. Claims 9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Holcomb.

Cobb discloses a fluid atomizer as discussed above, except for the conduit comprising a distal portion that is user deformable to orient a direction of the nozzle. Holcomb discloses a spray nozzle assembly comprising a spray head 12 with a deformable conduit 18 connected to a fluid nozzle 20 that can be oriented in different directions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a conduit that can be deformable in the apparatus of Cobb, as taught by Holcomb, since with such a modification the end of the conduit containing the nozzle can be put in different positions to facilitate spraying hard to reach areas.

***Allowable Subject Matter***

9. Claims 2-7, 10-13, 19, 20, 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form (including all of the limitations of the base claim and any intervening claims).

***Response to Arguments***

10. Applicant's arguments, see pages 8-16, filed June 5, 2006, with respect to the rejection(s) of claim(s) 1-25 under 35 U.S.C. 102b) and 35 U.S.C. under 103(a) to Chaffin et al, Resnick, Cobb and Haberl have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cobb, Riley et al, Rockefeller, Schrieber, Holcomb and Heirle.

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***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is 571-272-4899. The examiner can normally be reached on 7:00-5:00; M, Tu, W and Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sjg  
9/27/07

  
**STEVEN J. GANEY**  
**PRIMARY EXAMINER**

*9/27/07*